

REMARKS/ARGUMENTS

The Office Action of April 28, 2009 was a “non-final” Office Action (see on page 2 of the April 28 Office Action). Nowhere in the April 28 non-final Office Action is it indicated that the April 28 non-final Office Action includes a final rejection.

Applicants responded to the April 28 non-final Office Action by filing an Amendment and Request for Reconsideration on September 28, 2009. The September 28 Amendment included amended claims, new claims and arguments in support of patentability. Applicants submit that all of the claims and arguments of the September 28 Amendment should have been entered and considered by the Examiner because such claims and arguments were submitted responsive to the non-final Office Action of April 28, 2009.

On November 16, 2009 the Office erroneously mailed an Advisory Action responsive to Applicants’ September 28 Amendment. Section 3 on page 2 of the Advisory Action indicates that the amendment of September 28, 2009 was not entered for the reason that it would raise new issues for consideration. Applicants submit that the mailing of the Advisory Action subsequent to Applicants’ response to a non-final Office Action was error on the part of the Office.

Applicants request withdrawal of the Advisory Action and full consideration of the claims and arguments of Applicants' September 28, 2009 Amendment.


Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/09)

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, L.L.P.
Norman F. Oblon



Stefan U. Koschmieder, Ph.D.
Attorney of Record
Registration No. 50,238